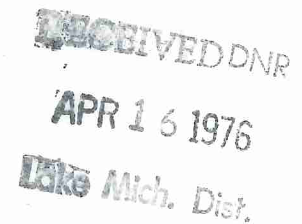
ibert-Lake
Michigan District
TW Buchanan
Lehrer

April 15, 1976 4510

Ms. Linda M. Clifford
Assistant Attorney General
123 W. Washington Avenue
Madison, Wisconsin 53701



Dear Linda:

I have received a copy of the letter dated April 6, 1976, from Charles Hartzheim regarding the above-captioned matter and have discussed the same with Gary Kulibert and Bob Glebs. There is nothing in the letter which changes our recommendation that the pending litigation be settled for nothing less than a minimum forfeiture of $5,000.

We recognize that substantial progress has been made in upgrading the site. However, this does not excuse the fact that significant violations of the solid waste management rules existed for long periods of time. The violations could have been corrected much sooner had the necessary resources been devoted to that purpose. In fact, we are quite certain that Mr. Lehrer saved considerably in excess of $5,000 by failing to maintain the site in compliance with the rules.

Moreover, even though we agree that solid waste disposal is a necessity, our position is, of course, that disposal must be done in accordance with the solid waste management rules.

Similarly, we believe that any pending private nuisance action should be considered completely apart from the state action. The statutory forfeiture has nothing to do with any alleged damages incurred by a neighbor. We do not believe that the amount of forfeiture received by the State should be dependent upon the existance or non-existance of any private action.

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As you know, Section 144.57, Wisconsin Statutes, provides for minimum daily forfeitures of $10.00. The Wisconsin Supreme Court has indicated that a lower court cannot reduce that amount. Even at $10 a day, the minimum forfeiture would be considerably in excess of $5,000. We have recommended that figure to you in recognition of the progress Mr. Lehrer has made and in order to avoid additional litigation and expense. However, in the event that the suit cannot be settled for that amount, we urge you to continue the litigation and to seek a substantially larger forfeiture from the court.

Sincerely,
Division of Enforcement

Charles Leveque
Attorney at Law

CL:bb

cc: Andrew C. Damon - 14
Robert T. Glebs - Coke
Gary Kulibert -Lake Michigan District